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107-12 CIVIL LAW DEPOSITION  
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East Poplar Oil Field

DEPOSITION - RENE M.

Region 8



13607

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

CARY G. YOUPEE, et al.,

Plaintiffs,

vs.

MURPHY OIL USA, INC., et al.,

Defendants.

Cause No. CV 98-108-BLG-JDS

Judge Jack D. Shanstrom

MESA PETROLEUM and PIONEER  
NATURAL RESOURCES, USA, INC.,

Defendants/  
Third Party Plaintiffs &  
Cross Plaintiffs,

vs.

DEPOSITION

OF

RENE MARTELL

AMARCO RESOURCES CORP.  
BESTWAY INC.; WESTDALE  
PETROLEUM INC.; and THE  
PRUDENTIAL GROUP,

Third Party Defendants,

vs.

JOHN DOES 4-50,

Cross-Defendants.

TIME: Monday, June 11, 2001 at 2:18 p.m.

PLACE: Sherman Motor Inn, 200 East Main, Wolf Point, MT

Joann D. Heser  
Official Court Reporter  
Fifteenth Judicial District  
Roosevelt County Courthouse  
Wolf Point, Montana 59201  
Ph. (406) 653-6272  
Home: (406) 525-3712

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ALSO PRESENT:

Josi Youpee

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1 BE IT REMEMBERED: That the oral deposition of RENE  
2 MARTELL was taken at 2:18 p.m. on the 11th day of June,  
3 2001 at the Sherman Motor Inn, 200 East Main, Wolf Point,  
4 Montana, with the appearances of counsel hereinbefore  
5 noted, before Joann D. Heser, Official Court Reporter and  
6 Notary Public for the State of Montana.

7 Diane Faye, of Attorney's Video Service of Montana,  
8 present to videotape the proceedings, placed an  
9 introduction onto the videotaped record. The following  
10 proceedings were then had:

11 -----  
12 Whereupon,

13 RENE MARTELL,  
14 called for examination, and being first duly sworn upon his  
15 oath, testified as follows:

16 EXAMINATION BY MR. WEBSTER:

17 Q Mr. Martell, my name is Mike Webster, and I  
18 represent Murphy Exploration. Is it -- can we -- can I  
19 call you Rene or?

20 A Sure.

21 Q Rene, you've probably taken more depositions than  
22 -- probably know this whole routine, but I'm going to  
23 wander through some of this, anyway. If I ask you a  
24 question and, for any reason, you don't understand it or  
25 it's confusing, please let me know and I'll try and  
26 rephrase it in a way that we both understand. Will you do  
27 that?

28 A Sure.

1 Q And also because this is both being videotaped and  
2 a standard form of recording, you realize, of course, that  
3 your answers need to be verbal as well as anything?

4 A Yes.

5 Q Also, Rene, if you need to take a break for any  
6 reason, please let us know, and we will take a break. Are  
7 you taking any medications today, anything that would make  
8 it difficult for you to answer fully and truthfully these  
9 questions?

10 A No.

11 Q Anything else about your health that would cause  
12 you to be unable to answer fully and truthfully today?

13 A No.

14 Q Rene, can I get a little bit of personal history  
15 from you in terms of where you were born and that? Where  
16 were you born?

17 A Spokane, Washington.

18 Q And what year?

19 A 1948.

20 Q How long have you lived in the Poplar area?

21 A Since August of 1970.

22 Q And how about your educational background?

23 A Bachelor of Science degree in business  
24 administration from the University of San Francisco in  
25 1970, a Masters of Science in Counselling from the  
26 University of Oregon in 1974, and a law degree from the  
27 University of Montana in 1988.

28 Q And do you practice law?

1 A Yes, I'm employed since law school with Montana  
2 Legal Services.

3 Q And their offices are here in Wolf Point or are  
4 they in Poplar?

5 A Currently, they're in Poplar.

6 Q Poplar?

7 A Yes.

8 Q Also, plaintiff in this lawsuit from your  
9 household, obviously, is Josi. Can you tell me her  
10 educational background?

11 A She has a year and a half of college from Portland  
12 State University.

13 Q Do you know what that study area was?

14 A I don't know.

15 Q Has Josi -- except for the time when she was off  
16 to college -- generally lived in the Poplar area her entire  
17 life?

18 A She attended Dobbs Ferry on the Hudson, I think  
19 the name of it was, for her high -- majority of her high  
20 school, in New York.

21 Q And is that -----

22 A She was home in the summers.

23 Q Alright. The property that is the subject of this  
24 claim, from your perspective, is it owned by Josi?

25 A Yes, it is.

26 Q And do you know when she acquired that property?

27 A She acquired it in January of 1988 in a gift deed  
28 from her father, William Youpee.



1 Q Is the land that -- it's a 40 acre tract, is that  
2 right?

3 A Yes.

4 Q Is that land used for anything other than your  
5 home?

6 A Yeah, used for livestock grazing.

7 Q Is the livestock owned by you or Josi or by  
8 others?

9 A It's owned by Josi and others. Some of it she  
10 owns outright, some of it she owns with her -- the rest of  
11 the family.

12 Q Does she receive compensation for the use of that  
13 land from others?

14 A No.

15 Q Have you -- how long have you lived on this  
16 property?

17 A Well, in 1987, Josi's father, William Youpee, had  
18 cancer; so beginning in the fall of 1987, while I was in  
19 law school, she moved back to live with him to take care of  
20 him. And when I graduated from law school after the bar  
21 exam, I also began living there. So from 1987 forward.

22 Q So Josi's been there since 1987, and you since  
23 1988?

24 A The summer of '88.

25 Q Was it in the current house that you live in now,  
26 that whole time?

27 A Yes.

28 Q And does Josi own that house?

1 A Yes.

2 Q Do you know how many wells there are -- water  
3 wells -- located on this land?

4 A I believe it's four. (Deponent receives document  
5 from his attorney.)

6 Q Rene, what did Mr. Dolan just give you to look at,  
7 if you could tell me?

8 A Um, it's the end listing of the wells on Josi's  
9 property and Cary's property. There was some initial  
10 confusion as to their numbering, and I sent him -- I talked  
11 -- Thamke was doing something, and we finally got it  
12 straightened out on the exact -- what the M numbers  
13 corresponded to, because some of them weren't --  
14 apparently, some of them weren't on the map; and some of  
15 them that were on that colored map that we were using,  
16 weren't correct. So there -- that's what. So I'm pretty  
17 sure there's -- I want to say there's, um -- there's three  
18 wells on Josi's 40 and two on Cary's.

19 Q And you only use one of those wells, is that  
20 correct?

21 A Right.

22 Q And do you know what number that one is?

23 A Um, M22.

24 Q Do you know why the other wells were drilled?

25 A Well, when Josi's dad was alive, in the 80's, he  
26 just got tired of the water, and he got IHS to drill,  
27 actually, three more wells out there. One of them was on -  
28 - well, he owned the land at the time, of course; so they

1 were all on -- he got them to drill three more wells  
2 looking for -- see if they could tap something, but they  
3 couldn't.

4 Q What prompted his desire for the new wells? I  
5 mean, was there a problem with the existing M22?

6 A Right. He couldn't use 22. I mean, he couldn't  
7 use 22 to the extent that he wanted to. It wasn't -- it  
8 was going downhill, so.

9 Q In terms of quantity or quality?

10 A Quality. He'd never had a problem with quantity.

11 Q Do you know when the water from M22 ceased being  
12 used for drinking?

13 A It was in the early 80's.

14 Q So it was prior to the time when you and Josi  
15 lived there?

16 A Right, yeah.

17 Q Do you know what Mr. Youpee did for water after he  
18 no longer was able to use it and prior to the time when you  
19 lived there?

20 A Well, I know he hauled it, and we hauled it for  
21 him, I mean, bottled water. He was, um -- water was his  
22 beverage. So, you know, he didn't drink, he didn't drink  
23 pop, he, you know, drank a little bit of coffee, but water,  
24 cold water, was what he had to have, so.

25 Q So after about 1985 then, the water was not used  
26 for drinking. What is it used for today? What do you use  
27 it for?

28 A We wash some dishes, not a lot; and the rest of

1 that water is used in the bathroom for a shower, washing up  
2 in the sink and the toilet.

3 Q When you say you wash some dishes but not many,  
4 what do you mean by that?

5 A Well, we just try to -- we just don't try to use  
6 a lot of dishes because we don't -- I mean, the dishes are  
7 turning orange, you know, and, I mean, you really don't  
8 want to be, you know, eating off a lot of plates with that  
9 water on, so we use a lot of paper plates, I mean, just to  
10 get around that.

11 Q Do you know what causes the discoloration?

12 A No, I don't.

13 Q Is it what you -- well, is there discoloration of  
14 your bathroom fixtures and those things?

15 A There is tremendous discoloration. I mean, when  
16 you go to the -- I mean, the toilet can be scoured when you  
17 go to bed at night, and when you go in there in the  
18 morning, it looks like Orange Crush, you know, and -- and,  
19 we've just -- we don't buy expensive faucets any more. We  
20 buy eight dollar faucets, and we buy six dollar shower  
21 heads; and we just use them until they're, I guess, too  
22 crappy to use any more and go buy some cheap ones again,  
23 because we've shot our wad on Moens and all that other  
24 expensive stuff.

25 Q In terms of when they're no longer usable, is it  
26 they're plugged up, they're clogged up, or they look bad or  
27 what -- what causes you to replace one?

28 A Actually, everything you said. I mean, the

1 screens get clogged up on them, the -- you know, they just  
2 look lousy. I mean, they get crap in them. White stuff  
3 sets up around the, you know, the handles and stuff. It's  
4 just -- you don't want to look at them, and the volume  
5 quits, and you can replace those aerators only so many  
6 times. And we have to clean everything with hydrochloric  
7 acid or phosphoric acid, and you can only do that so many  
8 times to plastic before it really deteriorates.

9 Q And you have to do that because that's the only  
10 thing that will clean those, is that -----

11 A Yes.

12 Q Do you use the water for things outside, for lawns  
13 or trees?

14 A The only thing we use it outside for is to flush  
15 the gophers out of their holes. That's it.

16 Q Do you have a cistern at all?

17 A No.

18 Q Have you considered a cistern?

19 A You know, I haven't. No.

20 Q I assume that out there you've got a septic  
21 system?

22 A Yes.

23 Q And has it caused any problems over the years?

24 A No, but we're cautious that way, too. We know  
25 that using phosphoric acid deteriorates the bacteria in the  
26 septic tank so we -- you know, there's things you can buy  
27 that reactivate the bacteria, so we take care of our septic  
28 tank so it doesn't. And we have it pumped out.

1 Q Relative to your home, where would the well be?  
2 Which direction from your house?

3 A We always have this discussion because our house  
4 is -- it's not north -- you know, it's not exactly north  
5 and south or east and west; so I'd say it's north but we.  
6 . . .

7 Q There's some disagreement about that?

8 A Yeah.

9 Q Okay.

10 A But it's like eight feet off the house.

11 Q And in relation to the well and your home, where's  
12 the septic system at?

13 A It's on the other side of the house facing --  
14 running a total different direction.

15 Q Okay. Do you have a water conditioner at your  
16 home?

17 A No.

18 Q Have you ever had one?

19 A We've never had one because, every time I submit  
20 the water, they say there's no machine they can sell us  
21 that would fix it, clean the water.

22 Q When the USGS was out and did it's several surveys  
23 out there, did you ever have occasion to visit with their  
24 people?

25 A No. I mean, we let them in, let them do their  
26 thing. That's -----

27 Q You didn't visit with Joanna Thamke in her field  
28 work?

1 A No.

2 Q Or any of those other folks?

3 A No.

4 Q They came and tested your water, though?

5 A Yeah.

6 Q And did you have an opportunity to visit with them

7 at the time that they came? Did they ask permission, I

8 guess I should say?

9 A Oh, yeah, they always asked permission; and they

10 just went and set up shop, and that was it.

11 Q Did they ever say what their purpose for testing

12 was?

13 A They just said -- as far as I can recall, they

14 just said they were testing the quality of the water.

15 Q Did they ever reference oil field matters in

16 connection with that?

17 A No.

18 Q In the deposition notice that was given, you were

19 asked to bring any additional documents you might have.

20 Did you bring any documents with you today?

21 A (Deponent confers with attorney.) Well, I just --

22 I was curious as to the exact history of Josi's and Cary's

23 lands, so I went to the Bureau and got them.

24 Q Got an A & E card?

25 A Yeah.

26 (AT THIS TIME, THE COURT REPORTER MARKED DEPOSITION

27 EXHIBITS 10 AND 11 FOR IDENTIFICATION PURPOSES.)

28 Q (By Mr. Webster) And those documents, Rene, that

1 are being marked as exhibits, those basically indicate  
2 ownership information relative to Josi's land, is that  
3 right?

4 A (By Deponent) Yes.

5 Q Rene, were you aware or you or Josi aware or have  
6 you ever discussed any prior lawsuits out in your part of  
7 the world having to do with oil field contamination?

8 A I was aware of Bud Lien's lawsuit just from what  
9 I read in the paper.

10 Q And do you remember about when that lawsuit  
11 happened?

12 A It was in the early 80's, I think.

13 Q When that happened and with that knowledge in  
14 mind, as the water quality at your -- at Josi's property  
15 began to get worse, did you suspect it was oil field  
16 related?

17 A No, 'cause he's so far north of us. And one thing  
18 about Bud's land, it's right next to a -- you know, all  
19 kinds of Murphy batteries. There's these humongous tanks  
20 out there. So I didn't make the connection.

21 Q Did you ever have any discussions with any Tribal  
22 agencies or employees of the Tribe relative to water  
23 matters out there?

24 A No.

25 Q Have you ever talked to Deb Madison about your  
26 water quality issues?

27 A Oh, okay, I mean, are you talking any time or back  
28 when or?



1 Q Any time.

2 A Oh, yeah. I mean, once EPA got involved, then we  
3 talked to Deb Madison's workers when they came out and took  
4 water samples.

5 Q And that would have been about what year?

6 A Well, that's in. . . I don't know -- the last  
7 couple years.

8 Q No time before then, though, talking to Deb or  
9 anyone?

10 A No.

11 Q How about any discussions with the Indian Health  
12 Service?

13 A No. Well, no, I never had any. You know,  
14 apparently, my father-in-law did, because he got three new  
15 wells -- three wells to try from -- that they paid for.

16 Q Do you know at all what he may have ever been told  
17 by the Indian Health Service about his water?

18 A Just that it wasn't any better than what he has.

19 Q Indian Health Service never suggested that the  
20 problem was oil field related that you know of?

21 A Not that I know.

22 Q Have you had discussions then with the  
23 Environmental Protection Agency folks?

24 A Just in their -- I just went to their -- we all  
25 went to their public meeting they had in Poplar.

26 Q No other discussions beyond that with them  
27 otherwise when they were sampling or anything?

28 A No. No, they just come and want to -- sometimes

1 they'd come in the house and sometimes they wouldn't.

2 Q As I indicated, Rene, I am here today for Murphy  
3 Exploration. Have you ever had any discussions with  
4 employees or representatives of Murphy about your water  
5 quality or your water issues?

6 A No. I know those guys, but that's not what we  
7 talk about, so.

8 Q You know Ray Reede and others?

9 A Yeah.

10 Q Have you ever observed in living out there and in  
11 just being there, any problems with oil wells? Have you  
12 seen anything that made you think there was a problem with  
13 a particular well ever?

14 A I had never seen that indicated there was a  
15 problem, no. But we don't go that way either, so.

16 Q Have you ever seen any salt water on the ground  
17 anywhere, anything like that?

18 A Well, yeah, when you get out there, like we go in  
19 the hills and dig for turnips or go -- if the horses get  
20 out, we go and you see -- you know, you see spots east of  
21 our house where the oil field is that are -- you know, once  
22 in a while, you know, you see the white stuff on the  
23 ground.

24 Q Do you ever -- have you ever contacted a company,  
25 contacted Murphy or contacted another company and  
26 identified those spots or told them about those?

27 A No. No.

28 Q Have you had discussions with -- you said you have

1 not with any employees or representatives of Murphy. How  
2 about any other oil companies out there that have or are  
3 operating out there?

4 A No, I haven't.

5 Q How long have you been using bottled water?

6 A Well, we've always used it.

7 Q And since the EPA issued its order, you've been  
8 supplied bottled water?

9 A Yes.

10 Q And has that supply been adequate for your needs?

11 A Yes.

12 Q Is that working out okay?

13 A Yes.

14 Q Are there oil wells reasonably close to your  
15 property?

16 A Well, what do you mean by. . .

17 Q Well, within a mile or so of your property that  
18 you're aware of?

19 A I think there are, yes.

20 Q And you knew and know they're there?

21 A Yes.

22 Q And have you ever observed problems with those  
23 that are reasonably close?

24 A No.

25 Q Have you had any involvement, Rene, in terms of  
26 the new water system that's planned?

27 A I've gone to a couple of their meetings.

28 Q What is your understanding relative to when that

1 system may be built and when your household may be supplied  
2 water through or with that system?

3 A They say between ten and fifteen years, but I  
4 guess I'll believe it when I see it.

5 Q And why is that? Just a little skepticism about  
6 getting it built?

7 A It's a lot to ask to have that thing operational,  
8 not only from -- I mean, it's totally dependent on  
9 Congress, it's totally dependent on getting things built  
10 the way they think it ought to be built. You know, it's --  
11 everything is still hanging out there. I mean, they're not  
12 guaranteed to have the money, you know; and, well, I think  
13 it gets into politics whether they will have it.

14 Q Have you had any discussions, Rene, or do you know  
15 whether Josi has had any discussions with Tom Osborne? Tom  
16 was a party that Murphy Exploration had employed to go take  
17 some water samples.

18 A Yeah, I spent some time with Tom when he was out  
19 there.

20 Q What did you and he discuss?

21 A We just, um -- you know, he showed me what he did  
22 is what he did. I mean, he showed me -- he just showed me  
23 what he was doing, and, um. . . I'm trying to think. If he  
24 was able to get a reading while I was there, I observed it.  
25 I mean, he was -- I mean, he doesn't hesitate to tell me  
26 what he was doing and what something read, but I just can't  
27 -- I can't remember what it was now. If there was  
28 something he could do in that trailer, he showed me it;

1 and, you know, we did things to keep them warned. They let  
2 the people on the road know he was coming and stuff like  
3 that, so.

4 Q Okay. Rene, are there any gas tanks on the  
5 property, fuel tanks, gas tanks on your property?

6 A No.

7 Q Do you know, have there ever been?

8 A No, there hasn't been.

9 Q How is the plumbing in your house, other than the  
10 fixture part? Have you had problems with pipes and those  
11 things?

12 A Yeah, we have -- I mean, the pipes underneath like  
13 the kitchen sink and in the shower, they just don't last.  
14 I mean, we've had -- we used to have a really nice -- when  
15 my father-in-law was alive, we had to have a handicap-  
16 accessible, wheelchair accessible, shower put in there. It  
17 was tiled and it had a terrazzo base, and it was nice; but  
18 using hydrochloric and phosphoric acid rotted out the  
19 grout. And we re-grouted it and everything else, but it --  
20 then it -- it chunked up the terrazzo base on there so bad  
21 that we ended up putting a 32-inch fiberglass shower thing  
22 in there now that he's gone, so. Yeah, the plumbing, you  
23 know, it's just a matter of time before we have to re-do  
24 the whole thing.

25 Q Okay. When you moved out to the property in 1985  
26 -- or '87, I guess, although the water wasn't at that point  
27 used for drinking, what caused folks to quit drinking the  
28 water?

1 A Mainly, the taste.

2 Q And what about the -- what kind of a taste was it?

3 A It was salty.

4 Q Salty? Okay. In some answers that had been filed  
5 here to some discovery, there was an indication that in  
6 1990 that there had been discussions with the IHS about  
7 drilling of some wells. Do you recall that at all?

8 A Well, Bill was alive then, so I don't -- it's  
9 probably something he did. I mean, are you talking about  
10 wells on our property?

11 Q Yes.

12 A Well, that would have been these other M's, I  
13 guess. No, those are -- I'm not sure.

14 Q Those were, I think, in the 80's, right? Anyway.

15 A Well, the last one -- I mean, the one closest to  
16 the river was the last one drilled, and that could have  
17 been pushing '90.

18 Q Okay. And those were then discussions that  
19 neither you nor Josi were a part of?

20 A Right. Yeah.

21 Q Okay.

22 A Yeah, those were all done before -- I mean, while  
23 Bill was alive.

24 Q Have you ever seen the water samples that were  
25 prepared for any of those wells?

26 A You know, when Tom was there, I might have, you  
27 know, because -- yeah, I might have then. I don't recall.  
28 He was all over the place.

1 Q But not at the time when -- in say, '89 or '90 ---

2 -

3 A No.

4 Q --- when they were done, you don't recall seeing  
5 those?

6 A No.

7 Q Okay. In one of the documents that you all  
8 produced, and it was in a letter from the Culligan folks of  
9 Glasgow, they talked about putting in a new drain field for  
10 your septic system and the need for doing that. Does that  
11 -- do you know why that was there and did you do anything  
12 about it?

13 A Those are the guys from Glasgow?

14 Q Yeah.

15 A Okay, now, Culligan -- well, I'll give you the  
16 long story, I guess. Culligan got bought out, and we  
17 finally -- We were looking for an R.O. unit; and, finally,  
18 we contacted this guy in Toronto because Culligan got  
19 bought out by somebody. And this R.O. unit was the same  
20 type of R.O. unit that they use on these ocean-going ships.  
21 That's the only thing that would treat our water. And he  
22 said, if you get this kind of unit -- I think this is what  
23 he was saying -- you had to have -- how do you get rid of  
24 all the crap that comes out of it? So then you're talking  
25 about, you know, do you just dump it on the ground? you  
26 dump it in an open pit? you put it in another septic  
27 system? That's the only conversations I've had with  
28 Glasgow was about that. And they were -- all they were

1 doing was kind of repeating what this guy in Toronto said,  
2 so.

3 Q Kind of the intermediary there?

4 A Yeah. Because, I guess, well, Culligan is a  
5 franchise or whatever, so.

6 Q But there was -- in any event, you never did  
7 anything different with your drain field at your home?

8 A No, there wasn't any need to yet.

9 Q I know earlier you had indicated that you didn't  
10 talk to Joanna Thamke while she was doing field work; but,  
11 I think, in the interrogatory answers, there was an  
12 indication that you had. Can you -----

13 A No, -----

14 Q You don't recall doing that, though?

15 A No, that was ten years ago. I -- I mean, it  
16 wasn't -- I don't know if I. . . I mean, if -- I mean,  
17 being a layman and that, if we did have a conversation, it  
18 was just, yeah, it's still bad or something, but it wasn't  
19 -----

20 Q Okay.

21 A I mean, she never -- when she was there, you were  
22 out -- you really didn't have an idea why she was there.  
23 I mean, she was there to test the water, but you didn't  
24 know for who or what, just that the Tribe and USGS wanted  
25 this project done. So -- well, how bad is it? Well, it's  
26 bad. Okay, well, what's different today than -- well,  
27 what's not new, so.

28 Q Do you recall seeing any articles in the Poplar



1 newspaper or anything like that about the water testing and  
2 the USGS studies that were going on?

3 A You know, I don't recall it, but if they're in  
4 there, then I'm sure I read them. But I don't recall.

5 Q Rene, in the complaint and then also in a number  
6 of other documents that have been filed, there is a lot of  
7 claims and damage matters here. Are you or Josi claiming  
8 any damages for illnesses or injuries to your body or -- at  
9 this point?

10 A We don't have any physical injuries other -- I  
11 mean, there's a certain amount of emotional baggage that  
12 goes with having to live with the situation, but, no.

13 Q No physical damages, though?

14 A No.

15 Q Okay. What is the mental and emotional baggage  
16 that goes with this? What -----

17 A It's having to live -- live -- you know, to give  
18 up things that everybody else has. I mean, she has to go  
19 to Wolf Point or Poplar, you know, three times a week to  
20 wash clothes. I mean, we -- you know, you don't -- you've  
21 got to haul bottled water to drink. You can't have a lawn.  
22 You can't wash your car. You know, you've got to go across  
23 the river to get water for the livestock. I mean, it's --  
24 you know, you live on 40 acres in northeast Montana, and  
25 all you can do is look at it. I mean, the joke is if you  
26 don't want to cut your lawn, water it, 'cause it won't  
27 grow. So, it's -- that's -- our quality of life is really  
28 down. I mean, you can't -- I mean, I could -- you know,

1 unfortunately, I take a shower every other day cause I --  
2 you know, our water has half the salt of sea water. How  
3 many times a week do you want to do that? And, ah, like if  
4 -- we've been through the situations where, you know, if  
5 you want to get a perm, you've got to have it demineralized  
6 first, you know, before something -- you know, in the --  
7 just a lot of things that, I guess, everybody else takes  
8 for granted you can do, you know.

9 Q Okay. There's a claim for diminished property  
10 values?

11 A Yes.

12 Q Does that primarily relate to your home or is it  
13 to the other land as well?

14 A No, it'd be everything. The whole -- the house  
15 and the 40 acres.

16 Q And as to the rest, the reason it would be  
17 decreased in value is?

18 A That you can't do anything with it. I mean, you  
19 can't improve it in an agricultural sense without the  
20 water.

21 Q Is that country -- are there any pivot irrigation  
22 systems or sprinkler irrigation systems in the area that  
23 you live in?

24 A Not in the area we live in.

25 Q Okay. So if there were to be grains grown, they  
26 would primarily -- it would be just dryland farmland that  
27 would be used?

28 A Yes.

1 Q Your land, though, has not been farmed?

2 A No, it hasn't.

3 Q Rene, I've asked you a whole bunch of questions to  
4 try and get a better idea of your situation and your -- and  
5 what you face. Is there anything that I haven't asked you  
6 that you think I ought to know to understand this better?

7 A You know, when I first came up there in '70 and  
8 Josi and I were married in '72, in the 70's her family  
9 experienced like four deaths. And a year after the death,  
10 you have a memorial feast; and the way Josi's dad did it --  
11 and I was involved with this in '73 -- was, you know, we  
12 took a beef, had it cut up into fist size and then you boil  
13 that for distribution at the feast. And we'd have a water  
14 trough down by the river, and we'd take the water out of  
15 his house and fill up the trough and cook it all night.  
16 Well, we did that until '79 and then we -- the next time we  
17 tried that in the early '80's -- I think it was either '83  
18 or '84 -- and we filled up the trough, it was orange. And  
19 so we quit. I mean, we had to -- we drained it and went to  
20 town and got the water. So in the 70's it was all right  
21 'cause we were -- I mean, we were feeding hundreds of  
22 people that stuff and nobody ever got sick and it tasted  
23 great and -- And that's the only thing that I guess that  
24 you didn't ask me that I would give you.

25 MR. WEBSTER: Okay, I think that's it for now for me.

26 EXAMINATION BY MR. ROSS:

27 Q Rene, I'm John Ross. I represent Pioneer Natural  
28 Resources. Why did you come to Poplar? As I understood,

1 you came here in 1970?

2 A I was just a volunteer. I worked for the Fort  
3 Peck Tribes.

4 Q Are you a member of the Tribe?

5 A No, I'm not.

6 Q We've marked as Exhibit 1 the map in front of you.  
7 If you'd look at that for a minute, and I want to go over  
8 the wells again just to make sure I understand the wells  
9 and your location with regard to those wells. Now, there's  
10 M -- as I understand it -- there's M20, 21, 22 and 23.  
11 Those are all on your property, is that right? Or on  
12 Josi's property.

13 A M20, M21, and M22.

14 Q Are all on Josi's?

15 A Yeah, and if you want a more -- M21, we have it as  
16 -- I've made the note that it's by the corral.

17 Q Okay.

18 A M20's by the corral. M21 is the one closest to  
19 the river. That's between the corral and the river. And  
20 M22 is the one that's eight feet from our house.

21 Q Okay. Now, what about M23? Is there an M23 there  
22 also?

23 A Yes. That's -- that is on Cary Youpee's 40, and  
24 I -- for clarification I've designated that. It's on the  
25 south end of that 40.

26 Q Is it mislocated then on this Exhibit 1, Well 23?

27 A I don't think so 'cause I think that says -- is  
28 that a section line there or something? Below it?

1 Anyway, that's probably the most south well of the ones we  
2 have -- southern well of the ones we have.

3 Q Okay.

4 A And then 19 would be the northern-most well on  
5 Cary's property..

6 Q Okay. When were these wells drilled, do you know?

7 A I don't know. I'd say, well 19 was drilled before  
8 I was around there. Um, 22, I think that the log I read  
9 said '73. And then, um, 20, 21 and 23 were -- I'd have to  
10 say they were in the mid to late 80's, maybe even the '90  
11 that Mike Webster mentioned.

12 Q If I understood your testimony a few moments ago  
13 when you told the story about the beef, that in the late  
14 70's water wasn't that bad, but in the earlier -- in the  
15 early 80's it was worse; and I understood you to say that  
16 the problem -- one of the problems was there was a color  
17 problem, talked about it being orange.

18 A Yeah, and the taste.

19 Q Prior to the early 80's, did you not have that  
20 taste and orange coloration problem?

21 A No, because when you boil that beef, if it's  
22 boiling in orange water for, you know, eight hours, it's  
23 going to be a little bit orange, plus be in the fat, you  
24 know, so, no, we didn't.

25 Q What do you attribute -- if you know, what do you  
26 attribute the orange coloration problem?

27 A You know, I don't know.

28 Q Do you know if any of the Youpees had or have had

1 any interest in oil -- any of the oil wells in the East  
2 Poplar oil field? By interest, I mean a working interest  
3 or received royalties, that sort of thing.

4 A I would say, not to my knowledge, but then I got  
5 there in the 70's. There was twenty years of that before  
6 me, so.

7 Q Mike Webster asked a little bit about the rural  
8 water system; and, periodically, we've gotten information  
9 about that. What's your understanding about the current  
10 status of that system? You indicated, I think, it was ten  
11 to fifteen years away and then had lots of uncertainties,  
12 but do you have any other information about the status of  
13 that rural water plan?

14 A Well, they -- the last public meeting they said  
15 they had an engineering design and that the next step was  
16 to get into the environmental studies, and that's the last  
17 public thing that I've been to.

18 Q Has there been any funding of that plan as far as  
19 you know?

20 A Of the environmental -----

21 Q Of the rural water plan, any funding of the plan  
22 itself and, if so, how much?

23 A Well, it's an on-going -- I mean, there's the Fort  
24 Peck Tribes component and then there's the Dry Prairie  
25 Rural Water District. And, apparently, they have enough  
26 money to keep going and doing these -- I don't know what  
27 the sequence of these studies has to be, but they have  
28 enough money to keep doing the studies. Apparently, they

1 have to have these studies done before they can approach  
2 Congress for money.

3 Q What's the Tribes involvement in that rural water  
4 plan, if that's the right description?

5 A The Tribe is going to build it, and they're going  
6 to run it; and it's going to be free to everybody, Indian  
7 or non-Indian, on the reservation.

8 Q You were also asked about what the problems were.  
9 Do you have any idea on what the answer is or answers are  
10 to the water problem? Are there alternative water supplies  
11 available? If the answer is to get some sort of  
12 alternative water, what do you think the answers are?

13 A You know, I don't know what they are. You know,  
14 I've. . . I don't know where alternative water would be up  
15 there. I don't know the -- you know, what it would take to  
16 -- You know, I did some investigation into an R.O. unit,  
17 but, I mean, I think, you have the documents. What is it?  
18 A \$30,000 unit and where do you put the crud that comes out  
19 of it and how do you maintain it for so many years. That's  
20 as far as I've gone as far as alternatives, I guess.

21 Q I'm no technical person, but from my looking at  
22 the sum of the day, it looks to me like there are some  
23 areas that have better water than others in these Poplar  
24 oil fields. Do you think that's a fair statement that -----

25 A I don't know. I guess I don't know that. I  
26 wouldn't say that, but, I mean, judging from my neighbors.  
27 But, I mean, of course, everybody's better than us, but  
28 that doesn't -- that's not good either.

1 Q Well, for example, there's M30, I believe it is,  
2 that's a little bit east of Curly Lockman's, if you know  
3 where that is?

4 A Yeah.

5 Q And it was a well, I think the Tribe put it in for  
6 Trotters; and, you know, I guess it's all relative, but,  
7 I mean, that's a relatively good well.

8 A Well, and our understanding is he's got a heck of  
9 a machine in his basement, too, so I don't know what the  
10 real story is. I mean, it's -- that's our understanding is  
11 that he treats it. You know, there's a big machine in his  
12 basement, so I don't know what that means, but.

13 Q When you say his, are you talking about Lockman or  
14 Trotter?

15 A Trottier.

16 Q Which oil wells are closest to your property?

17 A I don't know. I mean, I -- you just go east of  
18 there, and I guess whatever ones are out there.

19 Q Are you aware of any particular oil well problems  
20 in the East Poplar oil field?

21 A No, I'm not. I mean, that whole area looks like  
22 hell if you ever drive out there. You'll be -- you know,  
23 it's not clean, that's for sure.

24 Q With regard to this lawsuit, whose idea was it to  
25 bring the lawsuit?

26 A Josi and mine.

27 Q And can you give me a little bit of history as to  
28 the origin of the lawsuit?



1           A     Well, we just read those USGS reports and thought  
2 that something ought to be done.

3           Q     Who all did you talk to about starting a lawsuit?  
4 Course, I'm not asking you what you talked to in terms of  
5 with your lawyer, but who did you confer with about the  
6 origin of the lawsuit?

7           A     Nobody.

8           Q     Did you approach the other plaintiffs or did they  
9 approach you, any of them?

10          A     We approached them.

11          Q     You approached them? You approached the other  
12 plaintiffs?

13          A     Yes, we approached them. I'm sorry.

14          Q     Were there any persons that you approached that  
15 declined to get involved?

16          A     Audrey Kirn and Mike Kirn.

17          Q     Why did they decline, do you know?

18          A     They wouldn't -- they never said.

19          Q     Other than the Kirns, anyone else decline to get  
20 involved?

21          A     No.

22          Q     Were there any of the plaintiffs that came to you  
23 and said they wanted to join that you didn't approach?

24          A     No.

25          Q     Some of the plaintiffs are involved or at least  
26 identified in the EPA proceedings. Are you familiar at all  
27 with the EPA proceedings?

28          A     Yes.

1 Q Do you know why some of the plaintiffs in this  
2 lawsuit are listed in that EPA proceeding as effected  
3 parties and some aren't?

4 A I thought everybody was in -- I mean, EPA -- I  
5 mean, like you guys are giving water to a lot more people  
6 than in this lawsuit, and I don't -- I don't which. . .

7 Q So you're not aware of any of the plaintiffs that  
8 aren't in the EPA proceeding?

9 A (Deponent confers with his attorney.) I'm missing  
10 this, I guess.

11 Q You talked about a diminution in the value of the  
12 property. Have you had any appraisals -- any appraiser  
13 that actually come in and done any appraisals on either  
14 your land or any of the other lands effected by this  
15 lawsuit that you're aware of?

16 A No.

17 Q What does land sell for in this area? Any ideas  
18 of what property values are for dryland wheat or a five  
19 acre residential piece of property? Any ideas of what real  
20 estate values are in this area?

21 A No.

22 Q Are they different, if you know, from other areas  
23 in northeastern Montana?

24 A You know, I don't. I mean, it's just something we  
25 haven't been around so.

26 MR. ROSS: I have no further questions. Thank you.

27 EXAMINATION BY MR. STERUP:

28 Q Rene, I'm Rob Sterup representing Samson

1 Hydrocarbons. You mentioned that the USGS report motivated  
2 you and Josi to pursue a remedy which ultimately led to  
3 this litigation. There have been a number of USGS reports.  
4 Was the one that you were referring to dated about 1997?

5 A Yes.

6 Q What was it about the 1997 USGS report that caused  
7 you to conclude it might be fruitful to pursue litigation?

8 A I think about the only thing I could understand  
9 was their conclusion which stated that they thought it was  
10 due to the oil field activity.

11 Q Anything else about the USGS report?

12 A No.

13 Q Had you reviewed any of the earlier USGS reports  
14 that you can recall?

15 A No.

16 Q When you and Josi moved onto the property around  
17 M22 back in 1987-1988, at that time you knew going in that  
18 the water on the property was not suitable for consumption,  
19 correct?

20 A Yes.

21 Q And at that time, bottled water was being used?

22 A Yes.

23 Q At that time, clothes were being washed in town  
24 rather than on the property?

25 A They've never been washed on the property ever.

26 Q And at that time, water from the property was not  
27 being used for livestock, rather water was being hauled in  
28 for livestock?

1           A     It was used a limited amount for livestock, not --  
2     I mean, it just -- if they'd drink it, they drank it, but  
3     it wasn't -- we didn't have an operation that depended on  
4     it. If we happened to have to have a horse in the corral  
5     and that was the only thing we could get to them that day,  
6     they sucked it up, but we had to haul it, yeah.

7           Q     And at that time again, 1987-1988, the water from  
8     M22 was not being used for lawns and trees and that sort of  
9     thing?

10          A     Yes, correct.

11          Q     Have you ever, so far as you can recollect, spoken  
12     with anyone from either Grace Petroleum or Samson  
13     Hydrocarbons?

14          A     You know, I -- not about anything in the oil  
15     field. I mean, I know a guy named Voorhees I thought  
16     worked for Grace, you'd see him at the gas station, but it  
17     was never -- you know, Grace had trucks there and you were  
18     gassed up at the same time, but that -- if that's -- I  
19     don't know. That's small town stuff is all. Nothing to do  
20     with their business.

21          Q     Aside from chit chat, just the usual small talk,  
22     never any discussion with Grace or Samson personnel about  
23     oil field activities that you can recall?

24          A     No.

25     MR. STERUP: I have no further questions.

26     EXAMINATION BY MR. FAGAN:

27          Q     Rene, I'm Gerry Fagan representing Marathon Oil.  
28     I have just a couple quick questions. I think Dick said

1 earlier that Josi was also -- her land was also associated  
2 with M14, but we weren't entirely clear on that. I notice  
3 that that's a little bit north of these other wells and I'd  
4 like to clear that up real quick. At least that's what  
5 I've got in my notes from earlier that we thought 14 might  
6 be Josi's, too.

7 A Yeah, that -- you know, they weren't ever -- well,  
8 when they were doing this, Bill was alive and then he  
9 wasn't, and he owned this property then his son Dwight  
10 owned it. M14 is Dwight's land.

11 Q Oh, okay.

12 A I don't know why they've put that on.

13 Q Thanks for clearing that up. Have you ever talked  
14 with any employee of Marathon Oil or Texas Oil and Gas?

15 A No.

16 Q Do you know of any of their oil field activities  
17 at all?

18 A No.

19 Q Has any of these wells, M20, 21 or 22, has benzene  
20 been found in any water sample?

21 A Not that I know of.

22 Q Do you know of any seismograph activities that  
23 were taking place primarily in the 80's?

24 A The only one that I can recall was on Dwight's  
25 land -- around M14.

26 Q When was that?

27 A Well, whenever you said it was.

28 Q In eighty sometime?

1           A     The last time they came through there. They came,  
2     you know. . .

3           Q     Was there a lot of activity, seismograph activity,  
4     back in the 80's, do you know?

5           A     I don't know how much there was. I mean, they  
6     came, and then he wasn't around. They wanted some papers  
7     signed to -- up there by where M14 was, that 40 that he  
8     owns there, and that -- and I'm not sure how far they went  
9     or.

10          Q     So you just basically know that they did some up  
11     there, but not really the extent or what went on?

12          A     Yeah, because you kind of keep an eye on them when  
13     they're up there and stuff.

14          Q     Any around M20, 21 or 22?

15          A     No.

16     MR. FAGAN: I have no further questions. Thanks.

17     EXAMINATION BY MR. DOLAN:

18          Q     Rene, I just want to clear something up. I think  
19     Mr. Ross was asking you a question about why some of the  
20     plaintiffs in this lawsuit are named in the EPA's  
21     administrative action and some aren't; and, in fact, some  
22     people who aren't plaintiffs in this action are also named  
23     in the EPA administrative action. You answered, I think,  
24     you understood that some people that weren't plaintiffs  
25     were on that list of people that were affected that the  
26     EPA's having water delivered to and that'd be the Kirns and  
27     people like that, right?

28          A     Yes.

1 Q It's my understanding that there are also people  
2 who are plaintiffs in this lawsuit who don't live on their  
3 property, Dwight Youpee being one of them, Cary Youpee  
4 being one of them, Allen Youpee being one of them. Is that  
5 right?

6 A Correct.

7 Q Are they -- those people who don't need water  
8 delivered right now because they don't live there, are they  
9 on the EPA's administrative order list or do you know?

10 A I don't know, you know. I mean, I'm trying to  
11 recall the heading in my head, but I can't. I mean, if the  
12 reason they should be on the list is because that list is  
13 a list of people getting water, then no.

14 Q They wouldn't be on it because they're not -- they  
15 didn't have a house -----

16 A Right.

17 Q Okay. And I think Mr. Webster asked you a  
18 question about whether the water being supplied now by the  
19 EPA order is sufficient for your needs, and you said yes.  
20 I assume you mean for drinking and cooking only?

21 A Oh, yeah. Yeah, it'd be nice to have water to  
22 bring down to the corral and -----

23 Q Wash your clothes, things like that.

24 A Oh, yeah. Yeah. It's the minimum, I would guess,  
25 is what I should say.

26 Q You don't have any way to shower with that water,  
27 right?

28 A No. I mean, we use -- we get, I don't know, five

or six jugs a week and that's for cooking and drinking and that's it.

MR. DOLAN: Okay, that's all I have.

EXAMINATION BY MR. WEBSTER:

Q I have one follow up question, I guess. Rene, how did it come about that you got a copy of the 1997 USGS report?

A It was in the mail.

Q Did they not mail the other USGS reports to you? Did you not receive any of the other ones, any of the prior ones?

A I guess we didn't.

Q You don't recall.

A I don't recall that, no, cause I. . .

MR. WEBSTER: That's it.

MR. ROSS: I have no further questions.

(THERE BEING NO FURTHER QUESTIONS, THIS DEPOSITION WAS THEN CONCLUDED AT 3:17 P.M. IT WAS RE-OPENED FOR QUESTIONING A MOMENT LATER TO ADD AN EXHIBIT TO THE RECORD. THE COURT REPORTER, AT THIS TIME, MARKED DEPOSITION EXHIBIT 12 FOR IDENTIFICATION PURPOSES.)

EXAMINATION BY MR. WEBSTER:

Q At the break, there was some discussion, Rene, about some additional documents that you had brought that we did not, when we broke, mark as exhibits. Can you explain to me -- those have been marked now as Exhibit 12, is that right?

A Yes.



1 Q And could you explain what those are?

2 A Well, we were instructed to bring documents  
3 showing what we've spent trying to keep up our house  
4 because of the water, and these are receipts mainly from  
5 Sunrise Lumber and Menard's dealing with -- some dealing  
6 with the rehabilitation of our bathroom, a lot of them  
7 dealing with buying faucets over the years, so.

8 Q And those have not been provided in previous  
9 document productions to date?

10 A Correct.

11 MR. WEBSTER: Well, those will be added then to your  
12 deposition.

13 EXAMINATION BY MR. DOLAN:

14 Q I have one more question. I want to clear this  
15 up, Rene. These are the envelopes with Josi Youpee's  
16 address on them from the U.S. Geological Survey library,  
17 two different ones. I think you answered you didn't  
18 remember whether you'd received the USGS reports except for  
19 the one in '97. Do you recall there were two associated  
20 with that one in '97, that one that just had the raw data  
21 called the hydrologic data, that came first, and then the  
22 one with the textual provisions that had the conclusion you  
23 testified about. Do you recall that? Two separate  
24 reports?

25 A I -- yeah, okay, I -----

26 Q No, if you don't recall, that's alright.

27 A I don't recall that, but, apparently, that's what  
28 happened, so.

1 Q Well, just read the postmarks on these two  
2 different -----

3 A One is March 12, 1996; the other's July 17, 1997.

4 Q And they're addressed to Josi Youpee?

5 A Yes.

6 MR. DOLAN: That's all.

7 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS THEN  
8 CONCLUDED AT 3:19 P.M.)  
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CERTIFICATE

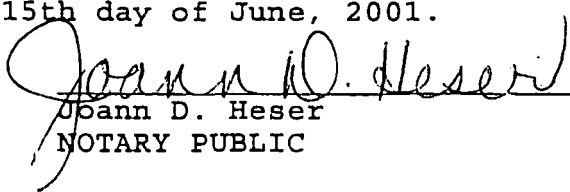
STATE OF MONTANA )  
: ss.  
COUNTY OF ROOSEVELT )

I, JOANN D. HESER, Official Court Reporter, Fifteenth Judicial District, and a Notary Public duly qualified in and for the State of Montana, hereby certify there came before me the deponent herein, namely RENE MARTELL, who was by me duly sworn to testify to the truth and nothing but the truth concerning the matters in this cause.

I further certify that I was the Official Court Reporter who reported, by means of LANIER recorder, this deposition. The testimony therein and other proceedings herein contained are a true and correct transcription of the original tapes and my notes, TO THE BEST OF MY ABILITY.

I further certify that I am not related in any manner to any party, witness, or counsel and have no financial or other interest in the outcome of the above entitled cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this 15th day of June, 2001.

  
Joann D. Heser  
NOTARY PUBLIC

My Comm. exp. 7/2/2004

DEPONENT'S CERTIFICATE

I, RENE MARTELL, do hereby certify that I have read the foregoing transcript of my testimony and that the same is a full, true and correct record of my deposition except as to any corrections I have listed on the Corrections to Deposition form.

\_\_\_\_\_ Changes and corrections made.

\_\_\_\_\_ No changes or corrections made.

\_\_\_\_\_  
RENE MARTELL

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
NOTARY PUBLIC for the State of Montana  
Residing at \_\_\_\_\_, Montana  
My Commission expires \_\_\_\_\_

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CORRECTIONS TO DEPOSITION

The Deponent, **RENE MARTELL**, states he wishes to make the following changes in testimony as originally sworn:

[illegible]

**RENE MARTELL**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

CARY G. YOUNG, et al.,

Plaintiffs,

vs.

MURPHY OIL USA, INC., et al.,

Defendants.

Cause No. CV 98-108-BLG-JDS

Judge Jack D. Shanstrom

MESA PETROLEUM and PIONEER  
NATURAL RESOURCES, USA, INC.,

Defendants/

Third Party Plaintiffs &  
Cross Plaintiffs,

DEPOSITION

OF

RENE MARTELL

AMARCO RESOURCES CORP.  
BESTWAY INC.; WESTDALE  
PETROLEUM INC.; and THE  
PRUDENTIAL GROUP,

Third Party Defendants,

vs.

JOHN DOES 4-50,

Cross-Defendants.

TIME: Monday, June 11, 2001 at 2:18 p.m.

PLACE: Sherman Motor Inn, 200 East Main, Wolf Point, MT

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ALSO PRESENT:

Josi Youpee

BE IT REMEMBERED: That the oral deposition of RENE MARTELL was taken at 2:18 p.m. on the 11th day of June, 2001 at the Sherman Motor Inn, 200 East Main, Wolf Point, Montana, with the appearances of counsel hereinbefore noted, before Joann D. Heser, Official Court Reporter and Notary Public for the State of Montana.

Diane Faye, of Attorney's Video Service of Montana, present to videotape the proceedings, placed an introduction onto the videotaped record. The following proceedings were then had:

Whereupon,

RENE MARTELL,

called for examination, and being first duly sworn upon his oath, testified as follows:

EXAMINATION BY MR. WEBSTER:

Q Mr. Martell, my name is Mike Webster, and I represent Murphy Exploration. Is it -- can we -- can I call you Rene or?

A Sure.

Q Rene, you've probably taken more depositions than -- probably know this whole routine, but I'm going to wander through some of this, anyway. If I ask you a question and, for any reason, you don't understand it or it's confusing, please let me know and I'll try and rephrase it in a way that we both understand. Will you do that?

A Sure.

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1 Q And also because this is both being videotaped and  
2 a standard form of recording, you realize, of course, that  
3 your answers need to be verbal as well as anything?  
4 A Yes.  
5 Q Also, Rene, if you need to take a break for any  
6 reason, please let us know, and we will take a break. Are  
7 you taking any medications today, anything that would make  
8 it difficult for you to answer fully and truthfully these  
9 questions?  
10 A No.  
11 Q Anything else about your health that would cause  
12 you to be unable to answer fully and truthfully today?  
13 A No.  
14 Q Rene, can I get a little bit of personal history  
15 from you in terms of where you were born and that? Where  
16 were you born?  
17 A Spokane, Washington.  
18 Q And what year?  
19 A 1948.  
20 Q How long have you lived in the Poplar area?  
21 A Since August of 1970.  
22 Q And how about your educational background?  
23 A Bachelor of Science degree in business  
24 administration from the University of San Francisco in  
25 1970, a Masters of Science in Counselling from the  
26 University of Oregon in 1974, and a law degree from the  
27 University of Montana in 1988.  
28 Q And do you practice law?

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1 A Yes, I'm employed since law school with Montana  
2 Legal Services.  
3 Q And their offices are here in Wolf Point or are  
4 they in Poplar?  
5 A Currently, they're in Poplar.  
6 Q Poplar?  
7 A Yes.  
8 Q Also, plaintiff in this lawsuit from your  
9 household, obviously, is Josi. Can you tell me her  
10 educational background?  
11 A She has a year and a half of college from Portland  
12 State University.  
13 Q Do you know what that study area was?  
14 A I don't know.  
15 Q Has Josi -- except for the time when she was off  
16 to college -- generally lived in the Poplar area her entire  
17 life?  
18 A She attended Dobbs Ferry on the Hudson, I think  
19 the name of it was, for her high -- majority of her high  
20 school, in New York.  
21 Q And is that ----  
22 A She was home in the summers.  
23 Q Alright. The property that is the subject of this  
24 claim, from your perspective, is it owned by Josi?  
25 A Yes, it is.  
26 Q And do you know when she acquired that property?  
27 A She acquired it in January of 1988 in a gift deed  
28 from her father, William Youpee.

1 Q Is the land that -- it's a 40 acre tract, is that  
2 right?  
3 A Yes.  
4 Q Is that land used for anything other than your  
5 home?  
6 A Yeah, used for livestock grazing.  
7 Q Is the livestock owned by you or Josi or by  
8 others?  
9 A It's owned by Josi and others. Some of it she  
10 owns outright, some of it she owns with her -- the rest of  
11 the family.  
12 Q Does she receive compensation for the use of that  
13 land from others?  
14 A No.  
15 Q Have you -- how long have you lived on this  
16 property?  
17 A Well, in 1987, Josi's father, William Youpee, had  
18 cancer; so beginning in the fall of 1987, while I was in  
19 law school, she moved back to live with him to take care of  
20 him. And when I graduated from law school after the bar  
21 exam, I also began living there. So from 1987 forward.  
22 Q So Josi's been there since 1987, and you since  
23 1988?  
24 A The summer of '88.  
25 Q Was it in the current house that you live in now,  
26 that whole time?  
27 A Yes.  
28 Q And does Josi own that house?

1 A Yes.  
2 Q Do you know how many wells there are -- water  
3 wells -- located on this land?  
4 A I believe it's four. (Deponent receives document  
5 from his attorney.)  
6 Q Rene, what did Mr. Dolan just give you to look at,  
7 if you could tell me?  
8 A Um, it's the end listing of the wells on Josi's  
9 property and Cary's property. There was some initial  
10 confusion as to their numbering, and I sent him -- I talked  
11 -- Thamke was doing something, and we finally got it  
12 straightened out on the exact -- what the M numbers  
13 corresponded to, because some of them weren't --  
14 apparently, some of them weren't on the map; and some of  
15 them that were on that colored map that we were using,  
16 weren't correct. So there -- that's what. So I'm pretty  
17 sure there's -- I want to say there's, um -- there's three  
18 wells on Josi's 40 and two on Cary's.  
19 Q And you only use one of those wells, is that  
20 correct?  
21 A Right.  
22 Q And do you know what number that one is?  
23 A Um, M22.  
24 Q Do you know why the other wells were drilled?  
25 A Well, when Josi's dad was alive, in the 80's, he  
26 just got tired of the water, and he got IHS to drill,  
27 actually, three more wells out there. One of them was on -  
28 - well, he owned the land at the time, of course; so they



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1 were all on -- he got them to drill three more wells  
 2 looking for -- see if they could tap something, but they  
 3 couldn't.  
 4 Q What prompted his desire for the new wells? I  
 5 mean, was there a problem with the existing M22?  
 6 A Right. He couldn't use 22. I mean, he couldn't  
 7 use 22 to the extent that he wanted to. It wasn't -- it  
 8 was going downhill, so.  
 9 Q In terms of quantity or quality?  
 10 A Quality. He'd never had a problem with quantity.  
 11 Q Do you know when the water from M22 ceased being  
 12 used for drinking?  
 13 A It was in the early 80's.  
 14 Q So it was prior to the time when you and Josi  
 15 lived there?  
 16 A Right, yeah.  
 17 Q Do you know what Mr. Youpee did for water after he  
 18 no longer was able to use it and prior to the time when you  
 19 lived there?  
 20 A Well, I know he hauled it, and we hauled it for  
 21 him, I mean, bottled water. He was, um -- water was his  
 22 beverage. So, you know, he didn't drink, he didn't drink  
 23 pop, he, you know, drank a little bit of coffee, but water,  
 24 cold water, was what he had to have, so.  
 25 Q So after about 1985 then, the water was not used  
 26 for drinking. What is it used for today? What do you use  
 27 it for?  
 28 A We wash some dishes, not a lot; and the rest of

1 screens get clogged up on them, the -- you know, they just  
 2 look lousy. I mean, they get crap in them. White stuff  
 3 sets up around the, you know, the handles and stuff. It's  
 4 just -- you don't want to look at them, and the volume  
 5 quits, and you can replace those aerators only so many  
 6 times. And we have to clean everything with hydrochloric  
 7 acid or phosphoric acid, and you can only do that so many  
 8 times to plastic before it really deteriorates.  
 9 Q And you have to do that because that's the only  
 10 thing that will clean those, is that ----  
 11 A Yes.  
 12 Q Do you use the water for things outside, for lawns  
 13 or trees?  
 14 A The only thing we use it outside for is to flush  
 15 the gophers out of their holes. That's it.  
 16 Q Do you have a cistern at all?  
 17 A No.  
 18 Q Have you considered a cistern?  
 19 A You know, I haven't. No.  
 20 Q I assume that out there you've got a septic  
 21 system?  
 22 A Yes.  
 23 Q And has it caused any problems over the years?  
 24 A No, but we're cautious that way, too. We know  
 25 that using phosphoric acid deteriorates the bacteria in the  
 26 septic tank so we -- you know, there's things you can buy  
 27 that reactivate the bacteria, so we take care of our septic  
 28 tank so it doesn't. And we have it pumped out.

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1 that water is used in the bathroom for a shower, washing up  
 2 in the sink and the toilet.  
 3 Q When you say you wash some dishes but not many,  
 4 what do you mean by that?  
 5 A Well, we just try to -- we just don't try to use  
 6 a lot of dishes because we don't -- I mean, the dishes are  
 7 turning orange, you know, and, I mean, you really don't  
 8 want to be, you know, eating off a lot of plates with that  
 9 water on, so we use a lot of paper plates, I mean, just to  
 10 get around that.  
 11 Q Do you know what causes the discoloration?  
 12 A No, I don't.  
 13 Q Is it what you -- well, is there discoloration of  
 14 your bathroom fixtures and those things?  
 15 A There is tremendous discoloration. I mean, when  
 16 you go to the -- I mean, the toilet can be scoured when you  
 17 go to bed at night, and when you go in there in the  
 18 morning, it looks like Orange Crush, you know, and -- and,  
 19 we've just -- we don't buy expensive faucets any more. We  
 20 buy eight dollar faucets, and we buy six dollar shower  
 21 heads; and we just use them until they're, I guess, too  
 22 crappy to use any more and go buy some cheap ones again,  
 23 because we've shot our wad on Moens and all that other  
 24 expensive stuff.  
 25 Q In terms of when they're no longer usable, is it  
 26 they're plugged up, they're clogged up, or they look bad or  
 27 what -- what causes you to replace one?  
 28 A Actually, everything you said. I mean, the

1 Q Relative to your home, where would the well be?  
 2 Which direction from your house?  
 3 A We always have this discussion because our house  
 4 is -- it's not north -- you know, it's not exactly north  
 5 and south or east and west; so I'd say it's north but we.  
 6 ..  
 7 Q There's some disagreement about that?  
 8 A Yeah.  
 9 Q Okay.  
 10 A But it's like eight feet off the house.  
 11 Q And in relation to the well and your home, where's  
 12 the septic system at?  
 13 A It's on the other side of the house facing --  
 14 running a total different direction.  
 15 Q Okay. Do you have a water conditioner at your  
 16 home?  
 17 A No.  
 18 Q Have you ever had one?  
 19 A We've never had one because, every time I submit  
 20 the water, they say there's no machine they can sell us  
 21 that would fix it, clean the water.  
 22 Q When the USGS was out and did it's several surveys  
 23 out there, did you ever have occasion to visit with their  
 24 people?  
 25 A No. I mean, we let them in, let them do their  
 26 thing. That's ----  
 27 Q You didn't visit with Joanna Thamke in her field  
 28 work?

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1 A No.  
 2 Q Or any of those other folks?  
 3 A No.  
 4 Q They came and tested your water, though?  
 5 A Yeah.  
 6 Q And did you have an opportunity to visit with them  
 7 at the time that they came? Did they ask permission, I  
 8 guess I should say?  
 9 A Oh, yeah, they always asked permission; and they  
 10 just went and set up shop, and that was it.  
 11 Q Did they ever say what their purpose for testing  
 12 was?  
 13 A They just said -- as far as I can recall, they  
 14 just said they were testing the quality of the water.  
 15 Q Did they ever reference oil field matters in  
 16 connection with that?  
 17 A No.  
 18 Q In the deposition notice that was given, you were  
 19 asked to bring any additional documents you might have.  
 20 Did you bring any documents with you today?  
 21 A (Deponent confers with attorney.) Well, I just --  
 22 I was curious as to the exact history of Josi's and Cary's  
 23 lands, so I went to the Bureau and got them.  
 24 Q Got an A & E card?  
 25 A Yeah.  
 26 (AT THIS TIME, THE COURT REPORTER MARKED DEPOSITION  
 27 EXHIBITS 10 AND 11 FOR IDENTIFICATION PURPOSES.)  
 28 Q (By Mr. Webster) And those documents, Rene, that

1 Q Any time.  
 2 A Oh, yeah. I mean, once EPA got involved, then we  
 3 talked to Deb Madison's workers when they came out and took  
 4 water samples.  
 5 Q And that would have been about what year?  
 6 A Well, that's in. . . I don't know -- the last  
 7 couple years.  
 8 Q No time before then, though, talking to Deb or  
 9 anyone?  
 10 A No.  
 11 Q How about any discussions with the Indian Health  
 12 Service?  
 13 A No. Well, no, I never had any. You know,  
 14 apparently, my father-in-law did, because he got three new  
 15 wells -- three wells to try from -- that they paid for.  
 16 Q Do you know at all what he may have ever been told  
 17 by the Indian Health Service about his water?  
 18 A Just that it wasn't any better than what he has.  
 19 Q Indian Health Service never suggested that the  
 20 problem was oil field related that you know of?  
 21 A Not that I know.  
 22 Q Have you had discussions then with the  
 23 Environmental Protection Agency folks?  
 24 A Just in their -- I just went to their -- we all  
 25 went to their public meeting they had in Poplar.  
 26 Q No other discussions beyond that with them  
 27 otherwise when they were sampling or anything?  
 28 A No. No, they just come and want to -- sometimes

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1 are being marked as exhibits, those basically indicate  
 2 ownership information relative to Josi's land, is that  
 3 right?  
 4 A (By Deponent) Yes.  
 5 Q Rene, were you aware or you or Josi aware or have  
 6 you ever discussed any prior lawsuits out in your part of  
 7 the world having to do with oil field contamination?  
 8 A I was aware of Bud Lien's lawsuit just from what  
 9 I read in the paper.  
 10 Q And do you remember about when that lawsuit  
 11 happened?  
 12 A It was in the early 80's, I think.  
 13 Q When that happened and with that knowledge in  
 14 mind, as the water quality at your -- at Josi's property  
 15 began to get worse, did you suspect it was oil field  
 16 related?  
 17 A No, 'cause he's so far north of us. And one thing  
 18 about Bud's land, it's right next to a -- you know, all  
 19 kinds of Murphy batteries. There's these humongous tanks  
 20 out there. So I didn't make the connection.  
 21 Q Did you ever have any discussions with any Tribal  
 22 agencies or employees of the Tribe relative to water  
 23 matters out there?  
 24 A No.  
 25 Q Have you ever talked to Deb Madison about your  
 26 water quality issues?  
 27 A Oh, okay, I mean, are you talking any time or back  
 28 when or?

1 they'd come in the house and sometimes they wouldn't.  
 2 Q As I indicated, Rene, I am here today for Murphy  
 3 Exploration. Have you ever had any discussions with  
 4 employees or representatives of Murphy about your water  
 5 quality or your water issues?  
 6 A No. I know those guys, but that's not what we  
 7 talk about, so.  
 8 Q You know Ray Reede and others?  
 9 A Yeah.  
 10 Q Have you ever observed in living out there and in  
 11 just being there, any problems with oil wells? Have you  
 12 seen anything that made you think there was a problem with  
 13 a particular well ever?  
 14 A I had never seen that indicated there was a  
 15 problem, no. But we don't go that way either, so.  
 16 Q Have you ever seen any salt water on the ground  
 17 anywhere, anything like that?  
 18 A Well, yeah, when you get out there, like we go in  
 19 the hills and dig for turnips or go -- if the horses get  
 20 out, we go and you see -- you know, you see spots east of  
 21 our house where the oil field is that are -- you know, once  
 22 in a while, you know, you see the white stuff on the  
 23 ground.  
 24 Q Do you ever -- have you ever contacted a company,  
 25 contacted Murphy or contacted another company and  
 26 identified those spots or told them about those?  
 27 A No. No.  
 28 Q Have you had discussions with -- you said you have

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Page 19

1 not with any employees or representatives of Murphy. How  
 2 about any other oil companies out there that have or are  
 3 operating out there?  
 4 A No, I haven't.  
 5 Q How long have you been using bottled water?  
 6 A Well, we've always used it.  
 7 Q And since the EPA issued its order, you've been  
 8 supplied bottled water?  
 9 A Yes.  
 10 Q And has that supply been adequate for your needs?  
 11 A Yes.  
 12 Q Is that working out okay?  
 13 A Yes.  
 14 Q Are there oil wells reasonably close to your  
 15 property?  
 16 A Well, what do you mean by. . .  
 17 Q Well, within a mile or so of your property that  
 18 you're aware of?  
 19 A I think there are, yes.  
 20 Q And you knew and know they're there?  
 21 A Yes.  
 22 Q And have you ever observed problems with those  
 23 that are reasonably close?  
 24 A No.  
 25 Q Have you had any involvement, Rene, in terms of  
 26 the new water system that's planned?  
 27 A I've gone to a couple of their meetings.  
 28 Q What is your understanding relative to when that

1 and, you know, we did things to keep them warned. They let  
 2 the people on the road know he was coming and stuff like  
 3 that, so.  
 4 Q Okay. Rene, are there any gas tanks on the  
 5 property, fuel tanks, gas tanks on your property?  
 6 A No.  
 7 Q Do you know, have there ever been?  
 8 A No, there hasn't been.  
 9 Q How is the plumbing in your house, other than the  
 10 fixture part? Have you had problems with pipes and those  
 11 things?  
 12 A Yeah, we have -- I mean, the pipes underneath like  
 13 the kitchen sink and in the shower, they just don't last.  
 14 I mean, we've had -- we used to have a really nice -- when  
 15 my father-in-law was alive, we had to have a handicap-  
 16 accessible, wheelchair accessible, shower put in there. It  
 17 was tiled and it had a terrazzo base, and it was nice; but  
 18 using hydrochloric and phosphoric acid rotted out the  
 19 grout. And we re-grouted it and everything else, but it --  
 20 then it -- it chunked up the terrazzo base on there so bad  
 21 that we ended up putting a 32-inch fiberglass shower thing  
 22 in there now that he's gone, so. Yeah, the plumbing, you  
 23 know, it's just a matter of time before we have to re-do  
 24 the whole thing.  
 25 Q Okay. When you moved out to the property in 1985  
 26 -- or '87, I guess, although the water wasn't at that point  
 27 used for drinking, what caused folks to quit drinking the  
 28 water?

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1 system may be built and when your household may be supplied  
 2 water through or with that system?  
 3 A They say between ten and fifteen years, but I  
 4 guess I'll believe it when I see it.  
 5 Q And why is that? Just a little skepticism about  
 6 getting it built?  
 7 A It's a lot to ask to have that thing operational,  
 8 not only from -- I mean, it's totally dependent on  
 9 Congress, it's totally dependent on getting things built  
 10 the way they think it ought to be built. You know, it's --  
 11 everything is still hanging out there. I mean, they're not  
 12 guaranteed to have the money, you know; and, well, I think  
 13 it gets into politics whether they will have it.  
 14 Q Have you had any discussions, Rene, or do you know  
 15 whether Josi has had any discussions with Tom Osborne? Tom  
 16 was a party that Murphy Exploration had employed to go take  
 17 some water samples.  
 18 A Yeah, I spent some time with Tom when he was out  
 19 there.  
 20 Q What did you and he discuss?  
 21 A We just, um -- you know, he showed me what he did  
 22 is what he did. I mean, he showed me -- he just showed me  
 23 what he was doing, and, um. . . I'm trying to think. If he  
 24 was able to get a reading while I was there, I observed it.  
 25 I mean, he was -- I mean, he doesn't hesitate to tell me  
 26 what he was doing and what something read, but I just can't  
 27 -- I can't remember what it was now. If there was  
 28 something he could do in that trailer, he showed me it;

1 A Mainly, the taste.  
 2 Q And what about the -- what kind of a taste was it?  
 3 A It was salty.  
 4 Q Salty? Okay. In some answers that had been filed  
 5 here to some discovery, there was an indication that in  
 6 1990 that there had been discussions with the IHS about  
 7 drilling of some wells. Do you recall that at all?  
 8 A Well, Bill was alive then, so I don't -- it's  
 9 probably something he did. I mean, are you talking about  
 10 wells on our property?  
 11 Q Yes.  
 12 A Well, that would have been these other M's, I  
 13 guess. No, those are -- I'm not sure.  
 14 Q Those were, I think, in the 80's, right? Anyway.  
 15 A Well, the last one -- I mean, the one closest to  
 16 the river was the last one drilled, and that could have  
 17 been pushing '90.  
 18 Q Okay. And those were then discussions that  
 19 neither you nor Josi were a part of?  
 20 A Right. Yeah.  
 21 Q Okay.  
 22 A Yeah, those were all done before -- I mean, while  
 23 Bill was alive.  
 24 Q Have you ever seen the water samples that were  
 25 prepared for any of those wells?  
 26 A You know, when Tom was there, I might have, you  
 27 know, because -- yeah, I might have then. I don't recall.  
 28 He was all over the place.

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1 Q But not at the time when -- in say, '89 or '90 ---  
 2 -  
 3 A No.  
 4 Q --- when they were done, you don't recall seeing  
 5 those?  
 6 A No.  
 7 Q Okay. In one of the documents that you all  
 8 produced, and it was in a letter from the Culligan folks of  
 9 Glasgow, they talked about putting in a new drain field for  
 10 your septic system and the need for doing that. Does that  
 11 -- do you know why that was there and did you do anything  
 12 about it?  
 13 A Those are the guys from Glasgow?  
 14 Q Yeah.  
 15 A Okay, now, Culligan -- well, I'll give you the  
 16 long story, I guess. Culligan got bought out, and we  
 17 finally -- We were looking for an R.O. unit; and, finally,  
 18 we contacted this guy in Toronto because Culligan got  
 19 bought out by somebody. And this R.O. unit was the same  
 20 type of R.O. unit that they use on these ocean-going ships.  
 21 That's the only thing that would treat our water. And he  
 22 said, if you get this kind of unit -- I think this is what  
 23 he was saying -- you had to have -- how do you get rid of  
 24 all the crap that comes out of it? So then you're talking  
 25 about, you know, do you just dump it on the ground? you  
 26 dump it in an open pit? you put it in another septic  
 27 system? That's the only conversations I've had with  
 28 Glasgow was about that. And they were -- all they were

1 newspaper or anything like that about the water testing and  
 2 the USGS studies that were going on?  
 3 A You know, I don't recall it, but if they're in  
 4 there, then I'm sure I read them. But I don't recall.  
 5 Q Rene, in the complaint and then also in a number  
 6 of other documents that have been filed, there is a lot of  
 7 claims and damage matters here. Are you or Josi claiming  
 8 any damages for illnesses or injuries to your body or -- at  
 9 this point?  
 10 A We don't have any physical injuries other -- I  
 11 mean, there's a certain amount of emotional baggage that  
 12 goes with having to live with the situation, but, no.  
 13 Q No physical damages, though?  
 14 A No.  
 15 Q Okay. What is the mental and emotional baggage  
 16 that goes with this? What ----  
 17 A It's having to live -- live -- you know, to give  
 18 up things that everybody else has. I mean, she has to go  
 19 to Wolf Point or Poplar, you know, three times a week to  
 20 wash clothes. I mean, we -- you know, you don't -- you've  
 21 got to haul bottled water to drink. You can't have a lawn.  
 22 You can't wash your car. You know, you've got to go across  
 23 the river to get water for the livestock. I mean, it's --  
 24 you know, you live on 40 acres in northeast Montana, and  
 25 all you can do is look at it. I mean, the joke is if you  
 26 don't want to cut your lawn, water it, 'cause it won't  
 27 grow. So, it's -- that's -- our quality of life is really  
 28 down. I mean, you can't -- I mean, I could -- you know,

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1 doing was kind of repeating what this guy in Toronto said,  
 2 so.  
 3 Q Kind of the intermediary there?  
 4 A Yeah. Because, I guess, well, Culligan is a  
 5 franchise or whatever, so.  
 6 Q But there was -- in any event, you never did  
 7 anything different with your drain field at your home?  
 8 A No, there wasn't any need to yet.  
 9 Q I know earlier you had indicated that you didn't  
 10 talk to Joanna Thamke while she was doing field work; but,  
 11 I think, in the interrogatory answers, there was an  
 12 indication that you had. Can you ----  
 13 A No, ----  
 14 Q You don't recall doing that, though?  
 15 A No, that was ten years ago. I -- I mean, it  
 16 wasn't -- I don't know if I... I mean, if -- I mean,  
 17 being a layman and that, if we did have a conversation, it  
 18 was just, yeah, it's still bad or something, but it wasn't  
 19 ----  
 20 Q Okay.  
 21 A I mean, she never -- when she was there, you were  
 22 out -- you really didn't have an idea why she was there.  
 23 I mean, she was there to test the water, but you didn't  
 24 know for who or what, just that the Tribe and USGS wanted  
 25 this project done. So -- well, how bad is it? Well, it's  
 26 bad. Okay, well, what's different today than -- well,  
 27 what's not new, so.  
 28 Q Do you recall seeing any articles in the Poplar

1 unfortunately, I take a shower every other day cause I --  
 2 you know, our water has half the salt of sea water. How  
 3 many times a week do you want to do that? And, ah, like if  
 4 -- we've been through the situations where, you know, if  
 5 you want to get a perm, you've got to have it demineralized  
 6 first, you know, before something -- you know, in the --  
 7 just a lot of things that, I guess, everybody else takes  
 8 for granted you can do, you know.  
 9 Q Okay. There's a claim for diminished property  
 10 values?  
 11 A Yes.  
 12 Q Does that primarily relate to your home or is it  
 13 to the other land as well?  
 14 A No, it'd be everything. The whole -- the house  
 15 and the 40 acres.  
 16 Q And as to the rest, the reason it would be  
 17 decreased in value is?  
 18 A That you can't do anything with it. I mean, you  
 19 can't improve it in an agricultural sense without the  
 20 water.  
 21 Q Is that country -- are there any pivot irrigation  
 22 systems or sprinkler irrigation systems in the area that  
 23 you live in?  
 24 A Not in the area we live in.  
 25 Q Okay. So if there were to be grains grown, they  
 26 would primarily -- it would be just dryland farmland that  
 27 would be used?  
 28 A Yes.

Page 25

Page 27

1 Q Your land, though, has not been farmed?  
 2 A No, it hasn't.  
 3 Q Rene, I've asked you a whole bunch of questions to  
 4 try and get a better idea of your situation and your -- and  
 5 what you face. Is there anything that I haven't asked you  
 6 that you think I ought to know to understand this better?  
 7 A You know, when I first came up there in '70 and  
 8 Josi and I were married in '72, in the 70's her family  
 9 experienced like four deaths. And a year after the death,  
 10 you have a memorial feast; and the way Josi's dad did it --  
 11 and I was involved with this in '73 -- was, you know, we  
 12 took a beef, had it cut up into fist size and then you boil  
 13 that for distribution at the feast. And we'd have a water  
 14 trough down by the river, and we'd take the water out of  
 15 his house and fill up the trough and cook it all night.  
 16 Well, we did that until '79 and then we -- the next time we  
 17 tried that in the early '80's -- I think it was either '83  
 18 or '84 -- and we filled up the trough, it was orange. And  
 19 so we quit. I mean, we had to -- we drained it and went to  
 20 town and got the water. So in the 70's it was all right  
 21 'cause we were -- I mean, we were feeding hundreds of  
 22 people that stuff and nobody ever got sick and it tasted  
 23 great and -- And that's the only thing that I guess that  
 24 you didn't ask me that I would give you.  
 25 MR. WEBSTER: Okay, I think that's it for now for me.  
 26 EXAMINATION BY MR. ROSS:  
 27 Q Rene, I'm John Ross. I represent Pioneer Natural  
 28 Resources. Why did you come to Poplar? As I understood,

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1 you came here in 1970?  
 2 A I was just a volunteer. I worked for the Fort  
 3 Peck Tribes.  
 4 Q Are you a member of the Tribe?  
 5 A No, I'm not.  
 6 Q We've marked as Exhibit I the map in front of you.  
 7 If you'd look at that for a minute, and I want to go over  
 8 the wells again just to make sure I understand the wells  
 9 and your location with regard to those wells. Now, there's  
 10 M -- as I understand it -- there's M20, 21, 22 and 23.  
 11 Those are all on your property, is that right? Or on  
 12 Josi's property.  
 13 A M20, M21, and M22.  
 14 Q Are all on Josi's?  
 15 A Yeah, and if you want a more -- M21, we have it as  
 16 -- I've made the note that it's by the corral.  
 17 Q Okay.  
 18 A M20's by the corral. M21 is the one closest to  
 19 the river. That's between the corral and the river. And  
 20 M22 is the one that's eight feet from our house.  
 21 Q Okay. Now, what about M23? Is there an M23 there  
 22 also?  
 23 A Yes. That's -- that is on Cary Youpee's 40, and  
 24 I -- for clarification I've designated that. It's on the  
 25 south end of that 40.  
 26 Q Is it mislocated then on this Exhibit I, Well 23?  
 27 A I don't think so 'cause I think that says -- is  
 28 that a section line there or something? Below it?

1 Anyway, that's probably the most south well of the ones we  
 2 have -- southern well of the ones we have.  
 3 Q Okay.  
 4 A And then 19 would be the northern-most well on  
 5 Cary's property.  
 6 Q Okay. When were these wells drilled, do you know?  
 7 A I don't know. I'd say, well 19 was drilled before  
 8 I was around there. Um, 22, I think that the log I read  
 9 said '73. And then, um, 20, 21 and 23 were -- I'd have to  
 10 say they were in the mid to late 80's, maybe even the '90  
 11 that Mike Webster mentioned.  
 12 Q If I understood your testimony a few moments ago  
 13 when you told the story about the beef, that in the late  
 14 70's water wasn't that bad, but in the earlier -- in the  
 15 early 80's it was worse; and I understood you to say that  
 16 the problem -- one of the problems was there was a color  
 17 problem, talked about it being orange.  
 18 A Yeah, and the taste.  
 19 Q Prior to the early 80's, did you not have that  
 20 taste and orange coloration problem?  
 21 A No, because when you boil that beef, if it's  
 22 boiling in orange water for, you know, eight hours, it's  
 23 going to be a little bit orange, plus be in the fat, you  
 24 know, so, no, we didn't.  
 25 Q What do you attribute -- if you know, what do you  
 26 attribute the orange coloration problem?  
 27 A You know, I don't know.  
 28 Q Do you know if any of the Youpees had or have had

1 any interest in oil -- any of the oil wells in the East  
 2 Poplar oil field? By interest, I mean a working interest  
 3 or received royalties, that sort of thing.  
 4 A I would say, not to my knowledge, but then I got  
 5 there in the 70's. There was twenty years of that before  
 6 me, so.  
 7 Q Mike Webster asked a little bit about the rural  
 8 water system; and, periodically, we've gotten information  
 9 about that. What's your understanding about the current  
 10 status of that system? You indicated, I think, it was ten  
 11 to fifteen years away and then had lots of uncertainties,  
 12 but do you have any other information about the status of  
 13 that rural water plan?  
 14 A Well, they -- the last public meeting they said  
 15 they had an engineering design and that the next step was  
 16 to get into the environmental studies, and that's the last  
 17 public thing that I've been to.  
 18 Q Has there been any funding of that plan as far as  
 19 you know?  
 20 A Of the environmental ----  
 21 Q Of the rural water plan, any funding of the plan  
 22 itself and, if so, how much?  
 23 A Well, it's an on-going -- I mean, there's the Fort  
 24 Peck Tribes component and then there's the Dry Prairie  
 25 Rural Water District. And, apparently, they have enough  
 26 money to keep going and doing these -- I don't know what  
 27 the sequence of these studies has to be, but they have  
 28 enough money to keep doing the studies. Apparently, they

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1 have to have these studies done before they can approach  
 2 Congress for money.  
 3 Q What's the Tribes involvement in that rural water  
 4 plan, if that's the right description?  
 5 A The Tribe is going to build it, and they're going  
 6 to run it; and it's going to be free to everybody, Indian  
 7 or non-Indian, on the reservation.  
 8 Q You were also asked about what the problems were.  
 9 Do you have any idea on what the answer is or answers are  
 10 to the water problem? Are there alternative water supplies  
 11 available? If the answer is to get some sort of  
 12 alternative water, what do you think the answers are?  
 13 A You know, I don't know what they are. You know,  
 14 I've. . . I don't know where alternative water would be up  
 15 there. I don't know the -- you know, what it would take to  
 16 -- You know, I did some investigation into an R.O. unit,  
 17 but, I mean, I think, you have the documents. What is it?  
 18 A \$30,000 unit and where do you put the crud that comes out  
 19 of it and how do you maintain it for so many years. That's  
 20 as far as I've gone as far as alternatives, I guess.  
 21 Q I'm no technical person, but from my looking at  
 22 the sum of the day, it looks to me like there are some  
 23 areas that have better water than others in these Poplar  
 24 oil fields. Do you think that's a fair statement that ----  
 25 A I don't know. I guess I don't know that. I  
 26 wouldn't say that, but, I mean, judging from my neighbors.  
 27 But, I mean, of course, everybody's better than us, but  
 28 that doesn't -- that's not good either.

1 A Well, we just read those USGS reports and thought  
 2 that something ought to be done.  
 3 Q Who all did you talk to about starting a lawsuit?  
 4 Course, I'm not asking you what you talked to in terms of  
 5 with your lawyer, but who did you confer with about the  
 6 origin of the lawsuit?  
 7 A Nobody.  
 8 Q Did you approach the other plaintiffs or did they  
 9 approach you, any of them?  
 10 A We approached them.  
 11 Q You approached them? You approached the other  
 12 plaintiffs?  
 13 A Yes, we approached them. I'm sorry.  
 14 Q Were there any persons that you approached that  
 15 declined to get involved?  
 16 A Audrey Kim and Mike Kim.  
 17 Q Why did they decline, do you know?  
 18 A They wouldn't -- they never said.  
 19 Q Other than the Kirms, anyone else decline to get  
 20 involved?  
 21 A No.  
 22 Q Were there any of the plaintiffs that came to you  
 23 and said they wanted to join that you didn't approach?  
 24 A No.  
 25 Q Some of the plaintiffs are involved or at least  
 26 identified in the EPA proceedings. Are you familiar at all  
 27 with the EPA proceedings?  
 28 A Yes.

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1 Q Well, for example, there's M30, I believe it is,  
 2 that's a little bit east of Curly Lockman's, if you know  
 3 where that is?  
 4 A Yeah.  
 5 Q And it was a well, I think the Tribe put it in for  
 6 Trotters; and, you know, I guess it's all relative, but,  
 7 I mean, that's a relatively good well.  
 8 A Well, and our understanding is he's got a heck of  
 9 a machine in his basement, too, so I don't know what the  
 10 real story is. I mean, it's -- that's our understanding is  
 11 that he treats it. You know, there's a big machine in his  
 12 basement, so I don't know what that means, but.  
 13 Q When you say his, are you talking about Lockman or  
 14 Trotter?  
 15 A Trotter.  
 16 Q Which oil wells are closest to your property?  
 17 A I don't know. I mean, I -- you just go east of  
 18 there, and I guess whatever ones are out there.  
 19 Q Are you aware of any particular oil well problems  
 20 in the East Poplar oil field?  
 21 A No, I'm not. I mean, that whole area looks like  
 22 hell if you ever drive out there. You'll be -- you know,  
 23 it's not clean, that's for sure.  
 24 Q With regard to this lawsuit, whose idea was it to  
 25 bring the lawsuit?  
 26 A Josi and mine.  
 27 Q And can you give me a little bit of history as to  
 28 the origin of the lawsuit?

1 Q Do you know why some of the plaintiffs in this  
 2 lawsuit are listed in that EPA proceeding as effected  
 3 parties and some aren't?  
 4 A I thought everybody was in -- I mean, EPA -- I  
 5 mean, like you guys are giving water to a lot more people  
 6 than in this lawsuit, and I don't -- I don't which. . .  
 7 Q So you're not aware of any of the plaintiffs that  
 8 aren't in the EPA proceeding?  
 9 A (Deponent confers with his attorney.) I'm missing  
 10 this, I guess.  
 11 Q You talked about a diminution in the value of the  
 12 property. Have you had any appraisals -- any appraiser  
 13 that actually come in and done any appraisals on either  
 14 your land or any of the other lands effected by this  
 15 lawsuit that you're aware of?  
 16 A No.  
 17 Q What does land sell for in this area? Any ideas  
 18 of what property values are for dryland wheat or a five  
 19 acre residential piece of property? Any ideas of what real  
 20 estate values are in this area?  
 21 A No.  
 22 Q Are they different, if you know, from other areas  
 23 in northeastern Montana?  
 24 A You know, I don't. I mean, it's just something we  
 25 haven't been around so.  
 26 MR. ROSS: I have no further questions. Thank you.  
 27 EXAMINATION BY MR. STERUP:  
 28 Q Rene, I'm Rob Sterup representing Samson

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1 Hydrocarbons. You mentioned that the USGS report motivated  
 2 you and Josi to pursue a remedy which ultimately led to  
 3 this litigation. There have been a number of USGS reports.  
 4 Was the one that you were referring to dated about 1997?  
 5 A Yes.  
 6 Q What was it about the 1997 USGS report that caused  
 7 you to conclude it might be fruitful to pursue litigation?  
 8 A I think about the only thing I could understand  
 9 was their conclusion which stated that they thought it was  
 10 due to the oil field activity.  
 11 Q Anything else about the USGS report?  
 12 A No.  
 13 Q Had you reviewed any of the earlier USGS reports  
 14 that you can recall?  
 15 A No.  
 16 Q When you and Josi moved onto the property around  
 17 M22 back in 1987-1988, at that time you knew going in that  
 18 the water on the property was not suitable for consumption,  
 19 correct?  
 20 A Yes.  
 21 Q And at that time, bottled water was being used?  
 22 A Yes.  
 23 Q At that time, clothes were being washed in town  
 24 rather than on the property?  
 25 A They've never been washed on the property ever.  
 26 Q And at that time, water from the property was not  
 27 being used for livestock, rather water was being hauled in  
 28 for livestock?

1 earlier that Josi was also -- her land was also associated  
 2 with M14, but we weren't entirely clear on that. I notice  
 3 that that's a little bit north of these other wells and I'd  
 4 like to clear that up real quick. At least that's what  
 5 I've got in my notes from earlier that we thought 14 might  
 6 be Josi's, too.  
 7 A Yeah, that -- you know, they weren't ever -- well,  
 8 when they were doing this, Bill was alive and then he  
 9 wasn't, and he owned this property then his son Dwight  
 10 owned it. M14 is Dwight's land.  
 11 Q Oh, okay.  
 12 A I don't know why they've put that on.  
 13 Q Thanks for clearing that up. Have you ever talked  
 14 with any employee of Marathon Oil or Texas Oil and Gas?  
 15 A No.  
 16 Q Do you know of any of their oil field activities  
 17 at all?  
 18 A No.  
 19 Q Has any of these wells, M20, 21 or 22, has benzene  
 20 been found in any water sample?  
 21 A Not that I know of.  
 22 Q Do you know of any seismograph activities that  
 23 were taking place primarily in the 80's?  
 24 A The only one that I can recall was on Dwight's  
 25 land -- around M14.  
 26 Q When was that?  
 27 A Well, whenever you said it was.  
 28 Q In eighty sometime?

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1 A It was used a limited amount for livestock, not --  
 2 I mean, it just -- if they'd drink it, they drank it, but  
 3 it wasn't -- we didn't have an operation that depended on  
 4 it. If we happened to have to have a horse in the corral  
 5 and that was the only thing we could get to them that day,  
 6 they sucked it up, but we had to haul it, yeah.  
 7 Q And at that time again, 1987-1988, the water from  
 8 M22 was not being used for lawns and trees and that sort of  
 9 thing?  
 10 A Yes, correct.  
 11 Q Have you ever, so far as you can recollect, spoken  
 12 with anyone from either Grace Petroleum or Samson  
 13 Hydrocarbons?  
 14 A You know, I -- not about anything in the oil  
 15 field. I mean, I know a guy named Voorhees I thought  
 16 worked for Grace, you'd see him at the gas station, but it  
 17 was never -- you know, Grace had trucks there and you were  
 18 gassed up at the same time, but that -- if that's -- I  
 19 don't know. That's small town stuff is all. Nothing to do  
 20 with their business.  
 21 Q Aside from chit chat, just the usual small talk,  
 22 never any discussion with Grace or Samson personnel about  
 23 oil field activities that you can recall?  
 24 A No.  
 25 MR. STERUP: I have no further questions.  
 26 EXAMINATION BY MR. FAGAN:  
 27 Q Rene, I'm Gerry Fagan representing Marathon Oil.  
 28 I have just a couple quick questions. I think Dick said

1 A The last time they came through there. They came,  
 2 you know. . .  
 3 Q Was there a lot of activity, seismograph activity,  
 4 back in the 80's, do you know?  
 5 A I don't know how much there was. I mean, they  
 6 came, and then he wasn't around. They wanted some papers  
 7 signed to -- up there by where M14 was, that 40 that he  
 8 owns there, and that -- and I'm not sure how far they went  
 9 or.  
 10 Q So you just basically know that they did some up  
 11 there, but not really the extent or what went on?  
 12 A Yeah, because you kind of keep an eye on them when  
 13 they're up there and stuff.  
 14 Q Any around M20, 21 or 22?  
 15 A No.  
 16 MR. FAGAN: I have no further questions. Thanks.  
 17 EXAMINATION BY MR. DOLAN:  
 18 Q Rene, I just want to clear something up. I think  
 19 Mr. Ross was asking you a question about why some of the  
 20 plaintiffs in this lawsuit are named in the EPA's  
 21 administrative action and some aren't; and, in fact, some  
 22 people who aren't plaintiffs in this action are also named  
 23 in the EPA administrative action. You answered, I think,  
 24 you understood that some people that weren't plaintiffs  
 25 were on that list of people that were affected that the  
 26 EPA's having water delivered to and that'd be the Kirns and  
 27 people like that, right?  
 28 A Yes.

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1 Q It's my understanding that there are also people  
2 who are plaintiffs in this lawsuit who don't live on their  
3 property, Dwight Youpee being one of them, Cary Youpee  
4 being one of them, Allen Youpee being one of them. Is that  
5 right?

6 A Correct.

7 Q Are they -- those people who don't need water  
8 delivered right now because they don't live there, are they  
9 on the EPA's administrative order list or do you know?

10 A I don't know, you know. I mean, I'm trying to  
11 recall the heading in my head, but I can't. I mean, if the  
12 reason they should be on the list is because that list is  
13 a list of people getting water, then no.

14 Q They wouldn't be on it because they're not -- they  
15 didn't have a house ----

16 A Right.

17 Q Okay. And I think Mr. Webster asked you a  
18 question about whether the water being supplied now by the  
19 EPA order is sufficient for your needs, and you said yes.  
20 I assume you mean for drinking and cooking only?

21 A Oh, yeah. Yeah, it'd be nice to have water to  
22 bring down to the corral and ----

23 Q Wash your clothes, things like that.

24 A Oh, yeah. Yeah. It's the minimum, I would guess,  
25 is what I should say.

26 Q You don't have any way to shower with that water,  
27 right?

28 A No. I mean, we use -- we get, I don't know, five

1 Q And could you explain what those are?

2 A Well, we were instructed to bring documents  
3 showing what we've spent trying to keep up our house  
4 because of the water, and these are receipts mainly from  
5 Sunrise Lumber and Menard's dealing with -- some dealing  
6 with the rehabilitation of our bathroom, a lot of them  
7 dealing with buying faucets over the years, so.

8 Q And those have not been provided in previous  
9 document productions to date?

10 A Correct.

11 MR. WEBSTER: Well, those will be added then to your  
12 deposition.

13 EXAMINATION BY MR. DOLAN:

14 Q I have one more question. I want to clear this  
15 up, Rene. These are the envelopes with Josi Youpee's  
16 address on them from the U.S. Geological Survey library,  
17 two different ones. I think you answered you didn't  
18 remember whether you'd received the USGS reports except for  
19 the one in '97. Do you recall there were two associated  
20 with that one in '97, that one that just had the raw data  
21 called the hydrologic data, that came first, and then the  
22 one with the textual provisions that had the conclusion you  
23 testified about. Do you recall that? Two separate  
24 reports?

25 A I -- yeah, okay, I ----

26 Q No, if you don't recall, that's alright.

27 A I don't recall that, but, apparently, that's what  
28 happened, so.

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1 or six jugs a week and that's for cooking and drinking and  
2 that's it.

3 MR. DOLAN: Okay, that's all I have.

4 EXAMINATION BY MR. WEBSTER:

5 Q I have one follow up question, I guess. Rene, how  
6 did it come about that you got a copy of the 1997 USGS  
7 report?

8 A It was in the mail.

9 Q Did they not mail the other USGS reports to you?

10 Did you not receive any of the other ones, any of the prior  
11 ones?

12 A I guess we didn't.

13 Q You don't recall.

14 A I don't recall that, no, cause I . . .

15 MR. WEBSTER: That's it.

16 MR. ROSS: I have no further questions.

17 (THERE BEING NO FURTHER QUESTIONS, THIS DEPOSITION WAS THEN  
18 CONCLUDED AT 3:17 P.M. IT WAS RE-OPENED FOR QUESTIONING A  
19 MOMENT LATER TO ADD AN EXHIBIT TO THE RECORD. THE COURT  
20 REPORTER, AT THIS TIME, MARKED DEPOSITION EXHIBIT 12 FOR  
21 IDENTIFICATION PURPOSES.)

22 EXAMINATION BY MR. WEBSTER:

23 Q At the break, there was some discussion, Rene,  
24 about some additional documents that you had brought that  
25 we did not, when we broke, mark as exhibits. Can you  
26 explain to me -- those have been marked now as Exhibit 12,  
27 is that right?

28 A Yes.

1 Q Well, just read the postmarks on these two  
2 different ----

3 A One is March 12, 1996; the other's July 17, 1997.

4 Q And they're addressed to Josi Youpee?

5 A Yes.

6 MR. DOLAN: That's all.

7 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS THEN  
8 CONCLUDED AT 3:19 P.M.)



CERTIFICATE

1 STATE OF MONTANA )  
 2 : ss.  
 3 , COUNTY OF ROOSEVELT )  
 4 I, JOANN D. HESER, Official Court Reporter, Fifteenth  
 5 Judicial District, and a Notary Public duly qualified in and for  
 6 the State of Montana, hereby certify there came before me the  
 7 deponent herein, namely RENE MARTELL, who was by me duly sworn  
 8 to testify to the truth and nothing but the truth concerning the  
 9 matters in this cause.  
 10 I further certify that I was the Official Court Reporter  
 11 who reported, by means of LANTER recorder, this deposition. The  
 12 testimony therein and other proceedings herein contained are a  
 13 true and correct transcription of the original tapes and my  
 14 notes, TO THE BEST OF MY ABILITY.  
 15 I further certify that I am not related in any manner to  
 16 any party, witness, or counsel and have no financial or other  
 17 interest in the outcome of the above entitled cause.  
 18 IN WITNESS WHEREOF, I have hereunto set my hand and affixed  
 19 my Notarial Seal this 15th day of June, 2001.

Joann D. Hesper

NOTARY PUBLIC

My Comm. exp. 7/2/2004

DEPONENT'S CERTIFICATE

1 I, RENE MARTELL, do hereby certify that I have read the  
 2 foregoing transcript of my testimony and that the same is a  
 3 full, true and correct record of my deposition except as to any  
 4 corrections I have listed on the Corrections to Deposition form.  
 5  
 6 \_\_\_\_\_ Changes and corrections made.  
 7 \_\_\_\_\_ No changes or corrections made.  
 8

RENE MARTELL

9  
 10 Subscribed and sworn to before me this \_\_\_\_\_ day of  
 11 \_\_\_\_\_, 2001.

12  
 13 NOTARY PUBLIC for the State of Montana  
 14 Residing at \_\_\_\_\_, Montana  
 15 My Commission expires \_\_\_\_\_  
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CORRECTIONS TO DEPOSITION

1  
 2  
 3 The Deponent, RENE MARTELL, states he wishes to make the  
 4 following changes in testimony as originally sworn:

5 PAGE	6 LINE	7 SHOULD READ	8 REASON
6			
7			
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